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SUBCHAPTER 8. SITE ACCESS

7:26C-8.1 Scope

This subchapter identifies the minimum requirements for a person planning to conduct remediation of real property not owned by that person, to obtain access to that property.

7:26C-8.2 Site access

(a) Any person responsible for conducting remediation of real property not owned by that person shall take all appropriate actions to obtain the access necessary to implement the remediation as outlined in (b) below.

(b) The person responsible for conducting remediation of real property not owned by that person that requires access to that property shall send a written request via certified mail, return receipt requested, with a copy to the Department, for access to the property, to each owner which shall include:

1. A copy of the oversight document or a description of the regulatory program pursuant to which remediation is being conducted;
2. A site map indicating each area for which access is needed;
3. A description of the reason access is needed and the extent of access needed;
4. A description of the remediation to be conducted, indicating the approximate time of initiation of the remediation and the approximate time necessary to implement the remediation; and
5. A request that the site owner respond in writing to the person requesting access within 30 calendar days after receipt of the written request.

(c) If the owner of the property does not respond, the person conducting the remediation shall send a second written request by certified mail return receipt requested, with a copy to the Department, to the property owner. The second written request shall include a copy of the first written request detailed in (b) above.

(d) Nothing contained in this section shall be construed to relieve any person conducting remediation of that person's obligations to conduct remediation at any portion of a site or area(s) of concern to which the person has access.

(e) The person responsible for conducting the remediation shall initiate and rigorously pursue an action in Superior Court, including an appeal to the Appellate Division, if appropriate, for site access if an access agreement with the property owner is not reached. The person responsible for conducting the remediation shall provide written confirmation to the Department of the initiation of such action. Upon request by the Department the person responsible for conducting the remediation shall submit a copy of the court order that indicates that the Superior Court denied access to the property.